

District Court - SRBA  
 Fifth Judicial District  
 In Re: Administrative Appeals  
 County of Twin Falls - State of Idaho

OCT 15 2010

By \_\_\_\_\_ Clerk  
 \_\_\_\_\_ Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**TWIN FALLS CANAL COMPANY,  
 NORTH SIDE CANAL COMPANY, A & B  
 IRRIGATION DISTRICT, AMERICAN  
 FALLS RESERVOIR DISTRICT #2,  
 BURLEY IRRIGATION DISTRICT,  
 MILNER IRRIGATION DISTRICT, and  
 MINIDOKA IRRIGATION DISTRICT,**

**Petitioners,**

vs.

**GARY SPACKMAN., in his capacity as  
 Interim Director of the Idaho Department  
 of Water Resources, and THE  
 DEPARTMENT OF WATER  
 RESOURCES,**

**Respondents.**

---

**IN THE MATTER OF THE IDAHO  
 GROUND WATER APPROPRIATORS,  
 INC.'S MITIGATION PLAN IN  
 RESPONSE TO THE SURFACE WATER  
 COALITION'S DELIVERY CALL.**

---

) **Case No. CV-2010-3075**  
 )  
 ) **ORDER DENYING MOTION**  
 ) **FOR CONSOLIDATION**  
 )  
 ) **ORDER GRANTING MOTION**  
 ) **TO AUGMENT RECORD**

On September 29, 2010, the Surface Water Coalition filed a *Motion for Consolidation* requesting that this Court consolidate the above-captioned matter with Twin Falls County Case CV-2010-382 ("TFCC 2010-382"), also pending before this Court. On October 1, 2010, the

SWC filed a *Motion to Augment Record* requesting that certain portions of the record in TFCC 2010-382 be included in this matter. The Idaho Department of Water Resources and Idaho Ground Water Appropriators, Inc. filed *Oppositions* to the request for consolidation. No objections were filed in opposition to the request to augment the record. Hearing on the *Motions* was held on October 15, 2010. At the hearing the Court ruled from the bench denying the SWC's request for consolidation and granting its *Motion to Augment Record*. This *Order* supplements the Court's bench ruling.

A court's decision whether to grant or deny a request for consolidation is a discretionary one. *Branom v. Smith Frozen Foods of Idaho, Inc.*, 83 Idaho 502, 508, 365 P.2d 958, 961 (1961). A court may order consolidation if the court is of the opinion that it may expedite its business and further the interests of the litigants, at the same time minimizing the expense upon the public and the litigants alike. *Id.*

The SWC argued that in order for this matter to properly be placed in context certain portions of the record in TFCC 2010-382 should be included in the record for this matter. It was the SWC's position that consolidation of the two cases would provide convenience to the Court and to the parties since the same factual record is pertinent, at least in part, to both cases. However, representations made at the hearing by the parties establish that although some factual similarities exist between the two cases this is not a situation where the parties will have to argue the same issues in two different cases. That is, the legal issues arising in TFCC 2010-382 will not need to be litigated in this matter and vice versa. Therefore the Court was not convinced that consolidation would promote judicial economy. As a result, the Court determined that the concerns of the parties can be addressed by granting the request to augment the record and denying the consolidation request.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED.

1. The SWC's *Motion for Consolidation* is hereby **denied**.
2. The SWC's *Motion to Augment Record* is hereby **granted**, and the Record in this matter shall be augmented to include the following documents:

Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover (April 7, 2010).

Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover (June 23, 2010).

Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4) (April 29, 2010)

Order Regarding IGWA Mitigation Obligation (May 17, 2010).

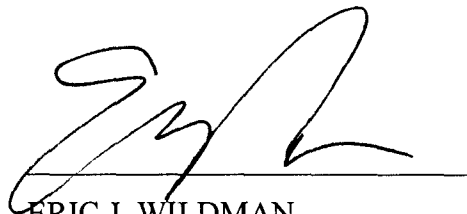
Final Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4); Order on Reconsideration (June 24, 2010).

Transcript, As Applied Order Hearing (Vols. I-II) (May 24-25, 2010).

Transcript, Methodology Order Hearing (May 24, 2010).

IT IS SO ORDERED.

Dated October 15, 2010.

  
ERIC J. WILDMAN  
District Judge

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING MOTION FOR CONSOLIDATION / ORDER GRANTING MOTION TO AUGMENT RECORD was mailed on October 15, 2010, with sufficient first-class postage to the following:

A&B IRRIGATION DISTRICT  
BURLEY IRRIGATION DISTRICT  
MILNER IRRIGATION DISTRICT  
NORTH SIDE CANAL COMPANY  
Represented by:  
BARKER ROSHOLT & SIMPSON LLP  
1010 W JEFFERSON, STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

TWIN FALLS CANAL COMPANY  
Represented by:  
BARKER, ROSHOLT & SIMPSON LLP  
113 MAIN AVE W, STE 303  
PO BOX 485  
TWIN FALLS, ID 83303-0485  
Phone: 208-733-0700

GARY SPACKMAN  
Represented by:  
BAXTER, GARRICK L  
DEPUTY ATTORNEY GENERAL  
STATE OF IDAHO - IDWR  
PO BOX 83720  
BOISE, ID 83720-0098  
Phone: 208-287-4800

AMERICAN FALLS RESERVOIR  
Represented by:  
C THOMAS ARKOOSH  
CAPITOL LAW GROUP, PLLC  
301 MAIN ST  
PO BOX 32  
GOODING, ID 83330  
Phone: 208-934-8872

IDAHO GROUND WATER  
Represented by:  
RACINE OLSON NYE BUDGE BAILEY  
201 E CENTER  
PO BOX 1391  
POCATELLO, ID 83204-1391  
Phone: 208-395-0011

MINIDOKA IRRIGATION DISTRICT  
Represented by:  
W KENT FLETCHER  
1200 OVERLAND AVE  
PO BOX 248  
BURLEY, ID 83318  
Phone: 208-678-3250

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098